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23 September 1953

OGC Has Reviewed

Memorandum for the Record

Subject: Social Security Administration of Employees and Consultants
 Paid on a Contract or Fee Basis

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1. [REDACTED] inquired concerning the basis on which this agency did not withhold deductions for social security on consultants or experts paid on a contract or fee basis. Per conversation amongst Messrs. [REDACTED] it was agreed that this matter would be reviewed and [REDACTED] informed accordingly. This memorandum will reflect the basis on which this agency handles experts and consultants in relation to social security and the information which has been related to [REDACTED]

2. Executive Order 9154 of May 1, 1942, effective January 24, 1942, excluded employees and consultants paid on a contract or fee basis from the provisions of the Retirement Act. The 1950 amendments to the Social Security Act, Public Law 734, 81st Congress, 2d Session, provide for certain exclusions from the withholding provisions of the social security legislation. Section 204(b)(7)(C)(v) of the aforesaid act provides in substance that the provisions of the act shall not apply after 1950 for service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is performed by any individual as an employee who is excluded by Executive Order from the operation of the Civil Service Retirement Act of 1930, because he is paid on a contract or fee basis.

3. The Federal Personnel Manual, Chapter R5, at pages R5-14 and R5-15, carries a summary of the employees excluded by Executive Order from the provisions of the Retirement Act. I advised [REDACTED] that this obviously was applicable only to those experts and consultants who were paid on a truly fee basis. Conventional employment of experts and consultants, i.e. while actually employed, would necessitate appropriate social security handling.

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[REDACTED]
 Assistant General Counsel

OGC/JBK:imm

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